

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35692

EASTSIDE COMMUNITY RAIL, LLC—ACQUISITION AND OPERATION
EXEMPTION—GNP RLY INC.

Docket No. FD 35730¹

BALLARD TERMINAL RAILROAD COMPANY, L.L.C.—LEASE EXEMPTION—
EASTSIDE COMMUNITY RAIL, LLC

Decided: September 24, 2018.

On November 7, 2012, Eastside Community Rail, LLC (ECR), a noncarrier, filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from GNP RLY Inc., and operate an exclusive freight rail easement (the Easement) over approximately 14.45 miles of rail line between milepost 23.8 in Woodinville, Wash., and milepost 38.25 in Snohomish, Wash. (the Line). This notice of exemption was served and published in the Federal Register on November 23, 2012 (77 Fed. Reg. 70,206). The exemption became effective on December 7, 2012. See Eastside Cmty. Rail, LLC—Acquis. & Operation Exemption—GNP RLY Inc., FD 35692 (STB served Nov. 23, 2012).

On April 2, 2013, Ballard Terminal Railroad Company, L.L.C. (Ballard), a Class III rail carrier, filed a verified notice of exemption under 49 C.F.R. § 1150.41 to lease the Easement from ECR and operate on the Line. This notice of exemption was served and published in the Federal Register on April 18, 2013 (78 Fed. Reg. 23,331). The exemption became effective on May 2, 2013. See Ballard Terminal R.R.—Lease Exemption—Line of Eastside Cmty. Rail, LLC, FD 35730 (STB served Apr. 18, 2013).

The physical assets of one portion of the Line (between milepost 23.80 and milepost 26.384) are currently owned by the City of Woodinville, Wash., and the physical assets of the other portion of the Line (between milepost 26.384 and milepost 38.25) are currently owned by Snohomish County, Wash. (the County). See Woodinville Pet. at 2-3, May 29, 2015, City of Woodinville, Wash.—Amended Pet. for Decl. Order, FD 35905; Snohomish Pet. at 1-2, May 29, 2014, Snohomish Cty., Wash.—Pet. for Decl. Order, FD 35830.

¹ These proceedings are not consolidated but are being addressed in the same decision for administrative convenience.

On July 12, 2018, the County filed petitions to revoke ECR's and Ballard's exemptions, asserting that the verified notices contained false and misleading information about ECR's property interest in the Easement. On August 14, 2018, Douglas Engle replied, stating that his reply was on behalf of ECR and claiming the information in ECR's notice was materially accurate. On August 22, 2018, Ballard replied, disclaiming any intentional misrepresentation to the Board. In response to the County's petitions, the Board received a number of replies, petitions, and comment letters from other interested parties.

The petitions to revoke raise issues that require further consideration by the Board. By this decision, the Board will institute proceedings under 49 U.S.C. § 10502(d) to consider the County's revocation requests. At this time, the Board does not anticipate setting a procedural schedule.

It is ordered:

1. Under 49 U.S.C. § 10502(d), proceedings are instituted in Docket Nos. FD 35692 and FD 35730 to consider the County's revocation requests.
2. These proceedings will be completed by June 24, 2019.
3. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.